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Letter dated 11 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Senegal, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: French]

Letter dated 27 December 2001 from the Permanent Representative of Senegal to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the pleasure, pursuant to the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism, to transmit to you the report of Senegal (see enclosure).

(*Signed*) Papa Louis **Fall**
Ambassador
Permanent Representative

Enclosure

Report by Senegal on the implementation of the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism

Right after 11 September 2001, Senegal, through the voice of the President of the Republic, His Excellency Mr. Abdoulaye Wade, firmly condemned the murderous attacks against the World Trade Center and the Pentagon.

Senegal's commitment to the international coalition against terrorism was confirmed in particular by the convening in Dakar on 16 and 17 October 2001, on the initiative of the head of State, of an African Summit against Terrorism.

The Dakar Declaration against Terrorism, issued at the conclusion of the work of that Summit, allowed Africa to solemnly reaffirm its resolute commitment to the combating of terrorism.

It is in this spirit that Senegal is endeavouring to implement the relevant provisions of resolution 1373 (2001), in particular paragraph 6 thereof.

The present national report highlights the measures and concrete actions undertaken or envisaged by the Senegalese Government in the context of the global struggle against terrorism.

Paragraph 1. Measures concerning the financing of terrorism

Subparagraph (a) — Combating the financing of terrorism

For the purpose of implementing the relevant provisions of Security Council resolution 1373 (2001) relating to the financing of terrorist groups, Senegal's action is being undertaken at two levels.

– *At the domestic level*

At this level, the competent Senegalese authorities have verified, by circular letters Nos. 101 to 109 of 4 October 2001 addressed to directors-general of banks and on the basis of lists drawn up by the European Union, the United States administration and the Central Bank of West African States (BCEAO), that there are no accounts belonging to terrorists or to groups linked to them in Senegalese financial institutions.

In the course of the Dakar Summit against Terrorism, the Senegalese delegation was able to engage in fruitful exchanges with the United States and French delegations regarding the conduct of anti-terrorist activities.

– *Through African subregional and regional bodies*

At this level, the Government of Senegal takes an active part in combating the financing of terrorism.

Thus, the Ministers of Finance of the States members of the Franc Zone, meeting in Paris on 25 September 2001, took the opportunity to express their solidarity with the United States following the attacks of 11 September 2001.

The Ministers also decided to strengthen their action to combat channels for the financing of terrorists.

Concerning the legal apparatus to be put in place, it should be emphasized that Senegal's membership in the West African Economic and Monetary Union (WEAMU) calls for an approach that is in harmony with that of the other States members of the Union.

In this regard, the Governor of BCEAO is to submit for adoption by the WEAMU Council of Ministers draft community regulations relating to the combating of terrorism which will be applicable to all WEAMU States, within the general framework of the campaign that this institution has decided to wage against money laundering.

Furthermore, following the decision of the Conference of Heads of State and Government of the Economic Community of West African States (ECOWAS) of 12 December 1999, the Intergovernmental Action Group against Money Laundering (GIABA) was established to organize and coordinate action to combat money laundering and to propose appropriate legislation for enactment.

On the initiative and under the coordination of Senegal, GIABA has been established with statutes and an already nominated provisional administrative secretary. Activities for awareness-raising among political and economic actors on the dangers and threats that money laundering presents for economies have begun. A training programme for actors is being prepared and will be carried out with international cooperation.

Lastly, a harmonized law on the combating of money laundering which will be applicable to all ECOWAS States is being drafted, with the aim, in particular, of establishing financial intelligence units, mechanisms for reporting suspicions and rules on the seizure and confiscation of assets emanating from money laundering. Both custodial and pecuniary penalties are envisaged.

Subparagraph (b) — Criminalization of the provision or collection of funds intended for terrorist purposes

There are no specific laws in Senegal that govern such activities.

However, certain provisions of the Penal Code, in particular article 80, may serve as a basis for the criminalization of these acts.

Subparagraph (c) — Legislation and procedures for freezing accounts and assets

Under the provisions of article 42 of Act No. 90-06 of 20 June 1990 on banking regulations, banks and financial institutions must provide, upon request from the Central Bank, any information relating to the list of accounts opened on behalf of suspected terrorists or suspected terrorist organizations and must notify the Central Bank of any request for the opening of an account relating to such persons or organizations.

Where necessary, such accounts will come under close scrutiny, and the provisions of the exchange regulations will be strictly applied to any transfer from abroad. Moreover, if such persons have accounts in francs or foreign exchange, they will be immediately closed.

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Furthermore, under the Code of Penal Procedure, banking confidentiality may not be invoked before the judiciary. Consequently, the courts can proceed to freeze the assets of any criminal group identified as such (article 87 bis of the Code of Penal Procedure in the case of an examining magistrate and article 372 bis of the Code in the case of the indictment division).

Circular letters Nos. 101 to 109 of 4 October 2001 were addressed to directors-general of banks requesting them to list and freeze any account opened on behalf of terrorists or groups linked to them.

It should be noted that under its legislation Senegal goes further than freezing assets, by proceeding to seize them (entailing dispossession) pending a judicial decision.

Subparagraph (d) — Measures prohibiting the making available of funds, financial assets or economic resources

There are no specific measures on this subject. However, under the Penal Code such actions may be criminalized either as complicity or concurrence of offences in relation to a principal offence.

Moreover, within the framework of conventions between central banks, foreign authorities may gather financial information on accounts domiciled in Senegal.

Paragraph 2. Legislation to suppress terrorist acts

Subparagraph (a) (i) — Suppressing recruitment of members of terrorist groups

In spite of the firm resolve of the Senegalese authorities to combat terrorism in all its forms, Senegal does not as yet have specific legislation for suppressing recruitment of members of terrorist groups. However, certain provisions contained in the Penal Code, while aimed at repressing criminal acts under ordinary law, may serve as a legal basis for prosecuting activities involving recruitment of members of terrorist groups. Such is the case with regard to the offence of conspiracy.

Subparagraph (a) (ii) — Combating the supply of weapons to terrorists

No specific legislation is yet in force with regard to the supply of weapons to terrorists. However, some provisions of Act No. 66-03 of 18 January 1966 concerning the general rules governing weapons and ammunitions and the Decree implementing it (No. 66-889 of 17 November 1966) relate to the combating and suppression of illegal possession of a firearm by any person whatsoever.

Under these provisions, the possession, bearing, transportation, importation and marketing of weapons and ammunition are subject to prior authorization by the Ministry of the Interior.

In addition, there is the ECOWAS moratorium on illicit traffic in light weapons.

Subparagraph (b) — Other steps taken to prevent terrorist acts

The attacks of 11 September 2001 have indeed triggered off a global campaign against terrorism and promoted a collective awareness of the danger that this scourge represents for peace and security.

However, Senegal did not await these unfortunate events before putting structures in place to combat all forms of terrorist threats.

This resolve has been illustrated, in particular, through the action carried out in the field by the services of the Ministry of the Interior and the Ministry of the Armed Forces.

This action involves not only research and the use of intelligence to detect and evaluate the threat but also the establishment of operational intervention units in the Police, the Gendarmerie and the Army.

In the same area, mention should also be made of the legislation on the entry and departure of aliens, the objective of which is to keep a check on aliens crossing the border and during their stay in Senegal.

Cooperation

The implementation of a security cooperation framework through an ongoing exchange of information on the geopolitics and the activity of terrorist or suspected terrorist networks also comes within this context. As this exchange of information is not subject to any procedure or formality, it ensures rapidity and makes this interdepartmental cooperation more effective.

Subparagraph (c) — Legislation or procedures for denying safe haven to terrorists

Under the Geneva Convention of 1951, the Protocol of 1967 and the Organization of African Unity (OAU) Convention of 1969, to which Senegal is a party, a number of provisions are envisaged for defining and establishing criteria for the granting of a status to applicants for asylum. Within the framework of the implementation of these conventions, Senegal has adopted all these provisions, through its domestic legislation, under Act No. 68-27 of 24 July 1968 establishing the conditions for the granting of refugee status and Act No. 75-109 of 20 December 1975 creating the National Committee on Eligibility for Refugee Status and establishing the modalities for its operation. In this regard, article 1.F of the Geneva Convention, which is incorporated in domestic legislation, may apply for the purpose of rejection or withdrawal of refugee status.

Subparagraph (d) — Legislation to prevent the use of Senegalese territory by terrorists

There is no specific legislation for preventing terrorists from using Senegalese territory for the purposes of committing terrorist acts against other States or their citizens.

However, all the provisions mentioned above in the context of the international conventions and incorporated in domestic legislation implementing them and in certain provisions of the Penal Code may be considered in this light. By way of example we may mention the OAU Convention on the Prevention and Combating of Terrorism and the Declaration on African action to combat terrorism adopted by the African Heads of State participating in the Dakar Summit of 16 and 17 October 2001.

Subparagraph (e) — Establishing acts as criminal offences

Terrorist acts are covered by offences defined in the Penal Code and by some miscellaneous legislation that is not incorporated in the Code.

Such offences may constitute attempts on life (murder, assassination, poisoning, etc.), offences against the person (kidnapping, illegal restraint, destruction, hijacking, etc.) and conspiracy (theft, extortion, etc.).

The manufacture, sale or transportation of explosive machinery, devices or substances and the possession and bearing of prohibited firearms also constitute offences under Senegalese legislation.

With regard to serious criminal offences, an attempted offence is always punishable. In the case of less serious offences, it is punishable if the law so provides.

It remains for Senegal to enact specific legislation on terrorism providing for aggravation of the above-mentioned offences where they are committed as part of a terrorist undertaking.

Subparagraph (f) — Procedures and mechanisms in place to assist other States

Information under this subparagraph may be found above.

Subparagraph (g) — How border controls can prevent the movement of terrorists

Systematic controls are maintained for any entry of aliens by the land, air and sea borders.

This control is applied, first of all, to the document required under Senegalese law for entry into and stay in Senegal. The principal requirement is submission of a valid travel document and an entry visa.

The second stage of the control relates to the authenticity of such documents, which is checked through technical support at the aerial border level and use of an index of stolen travel documents or travel documents reported missing by the issuing authority.

Lastly, the fact that Senegalese diplomatic and consular missions must consult the Ministry of the Interior before issuing visas to nationals of certain countries also constitutes a means of control and an additional guarantee for the precise identification of the visa applicant.

With regard to the issuance of identity and travel documents, Senegal has put in place a safeguard procedure based on a device for the identification of applicants and the establishment of a national index.

Thus, the establishment of a national identity card gives every individual a national identification number comprising several elements. This card is the main administrative backing for the issuance of a travel document, which makes it possible to establish a link between these two documents. Furthermore, the issuance of a travel document is itself subject to a procedure for individual identification of the applicant through assignment of a digital formula.

Lastly, the insertion in each passport page of a security device that is invisible to the naked eye and such that any attempt to tamper with it mars the fabric of the

page constitutes a guarantee of the authenticity of the passport. In this regard, Senegal envisages proceeding to a higher level of secure data storage and creating a new type of passport taking account of additional security requirements.

Paragraph 3. Security cooperation

Subparagraphs (a), (b) and (c)

Under the security cooperation agreements between Senegal and certain countries, which have been extended to others in the light of the attacks of 11 September 2001, exchanges of information take place systematically among the services concerns.

The exchanges cover a variety of fields, in particular the activity of suspected members of terrorist networks, the planning of terrorist projects and threats of terrorist acts in all their forms. These exchanges also concern travel documents that have been stolen or reported missing.

Subparagraphs (d) and (e) — Ratification of international instruments on combating terrorism

Senegal has ratified 4 (four) of the 12 (twelve) United Nations conventions on combating terrorism:

1. 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, ratified by Senegal on 28 February 1972;

2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, entered into force on 14 October 1971, ratified by Senegal on 14 February 1973;

3. 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and its 1984 Protocol, ratified by Senegal on 5 January 1973;

4. 1979 International Convention against the Taking of Hostages, ratified by Senegal on 10 March 1987.

Senegal has also ratified the OAU Convention on the Prevention and Combating of Terrorism.

Regarding the other conventions on terrorism concluded under United Nations auspices, including the International Convention for the Suppression of the Financing of Terrorism, the procedure for ratification by Senegal is under way.

In the case of the United Nations Convention against Transnational Organized Crime and its two Additional Protocols, which were signed by Senegal in Palermo, Italy, on 13 December 2000, the ratification procedure has been initiated. The situation is the same with regard to the third Protocol Additional to this Convention relating to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, adopted by the General Assembly of the United Nations on 31 May 2001.

Following ratification of all the conventions, the necessary measures for their implementation will be taken with a view to fulfilment of the commitments undertaken.

In all instances, the Senegalese Constitution affirms the supremacy of international treaties ratified and published over domestic legislation.

Subparagraphs (f) and (g) — Strengthening of the verification of eligibility for refugee status

The Senegalese laws on political asylum prohibit refugees admitted to Senegal from engaging in any kind of political activity. They would thus lose their refugee status if they participated in terrorist groups or acts, and they could be liable to prosecution, like any other resident in Senegalese territory.

Refugee status is granted only by decision of the President of the Republic, based on the opinion of the National Committee on Eligibility for Refugee Status, which is chaired by a senior judge and consists of representatives of the Ministries of the Interior, Justice and Foreign Affairs.

The Office of the United Nations High Commissioner for Refugees and the International Organization for Migration are also represented on this Committee as observers.

This Committee, which is an impartial and independent body, issues favourable opinions regarding the recognition of refugee status for any persons who fit the definition set forth in article 1 of the 1951 Geneva Convention relating to the Status of Refugees, as supplemented by the 1967 Protocol, or that contained in article 1 of the 1969 OAU Convention. It does so without any restrictive interpretation of these provisions.

In the case of an unfavourable opinion on the part of the Committee, the applicant has the possibility of appealing and also of seeking redress from the President of the Republic or the Council of State.

Assistance

For close on 10 years, Senegal has been making the combating of terrorism a priority.

Over and above vigorous condemnation of the attacks of 11 September, this determination has also been reflected by the decision by the President of the Republic to create a security unit whose principal task will be to detect, evaluate and combat all forms of terrorist threats.

In the light of its commitment and the efforts which it has made, Senegal requires assistance from the international community in two areas:

- Training of management-level personnel through courses and retraining programmes in areas relating to terrorist activity;
- Assistance in the form of technical materials and equipment for improving and strengthening the operational capacities of the services involved. The notorious lack of resources and the obsolete character of the existing ones limit the effectiveness of the performance of those services.